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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,726	12/03/2001	David C. Schwartz	DCSBKBNPK-C2	1315

7590 11/06/2002
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P.O. Box 109
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EXAMINER

CARTER, MONICA SMITH

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,726

Applicant(s)

SCHWARTZ, DAVID C. *ch*

Examiner

Monica S. Carter

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

✓ In claim 1, lines 27 and 28, it is not clear where the second and third edges are located with respect to the binder pocket.

✓ In claim 1, line 28, the recitation "said top end and said bottom end" appears to be incomplete.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman (4,795,287) in view of Cross (2,517,535).

Friedman discloses a binder pocket for a ring binder having a set of perimeter features (to include opposing top and bottom height edges, opposing side width edges, a predetermined height and a predetermined width), a margin portion (the margin begin located adjacent edge inner lateral edge 28) along one of the width edges, a face surface (top surface of 32) for receiving writing, a rectangular base panel (32) having perimeter features (to include opposing corners, opposing height edges, opposing width edges, a predetermined base panel height, and a predetermined base panel width wherein the predetermined base panel width is the pocket width), a book edge and a corner binding edge (See fig. 1); a book binding structure (26) formed along the book edge, a band (34) having predetermined height and a predetermined width, the band being closed along three sides and further having perimeter opposing top and bottom edges and opposing inner and outer edges (as seen in figure 1), a tab structure (42) formed integrally as a portion of the book binding pocket having adhesive which once the members are folded over each other automatically adheres the cover panel (34 – pocket) to the closure flap (40) (col. 4, lines 61-68); a first enclosed pocket (36) and a top corner pocket (50) for securing a plurality of loose leaf sheets; the top corner pocket having three edges including two adjacent edges attached to the base panel and an open lip edge therebetween, and a plurality of holes (26a) set a predetermined distance from the book edge.

Regarding the attachment of the adhesive providing a permanent closure, Friedman discloses using a “cooperating adhesive means, i.e. Velcro, contact tape, or

the like...". Inherently, this would include the use of a permanent adhesive should the user desire a permanent closure of the pocket.

Regarding a top and bottom tab portion adhesively attached to the base panel, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an additional tab portion adhesively attached to the base for closing the pocket, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Friedman discloses the claimed invention except for the first pocket being formed along the book edge and arranging the top corner pocket on the edge directly opposite the book binding structure. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Friedman's invention such that the first pocket is along the book edge for removably inserting sheets of paper and the top corner pocket is directly opposite the book binding structure, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Friedman discloses the claimed invention except for a bottom corner pocket opposite the book binding structure.

Cross discloses a mount comprising top and bottom corner pockets for securing the edges of inserts. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Friedman's invention to include a bottom

corner pocket directly opposite the book binding structure, as taught by Cross, for securely receiving the edges of an item bound to the holder.

Note that the references to the "leaf" are not positively claimed since the leaf does not form part of the structure of the book binding pocket but is merely supported in the book binding pocket.

Regarding claim 2, see the above rejections to claim 1.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dick (1,495,953), Kirk (Des. 275,576) and Thompson (4,602,734).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica S. Carter whose telephone number is (703) 305-0305. The examiner can normally be reached on Monday-Thursday (8:00 AM - 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (703) 308-2159. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

A handwritten signature in cursive script, reading "Monica S. Carter".

Monica S. Carter
Examiner
Art Unit 3722
November 4, 2002